

EXHIBIT 33

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

KATHLEEN MOLLER

VERSUS

**MARTIAN SALES, INC; JOPEN, LLC,
a Texas limited liability company;
JOHNSON FOODS, LLC, a Wyoming
limited liability company; LP IND., LLC,
a Wyoming limited liability company;
CAG HOLDINGS, LLC, a Wyoming
limited liability company; RMH
HOLDINGS, INC., a Wyoming
corporation; ABC INSURANCE
COMPANY and John Does 1-4.**

*** CIVIL ACTION NO. 24-0228-WBV-DPC**

*** JUDGE WENDY B. VITTER**

*** MAGISTRATE DONNA PHILLIPS
* CURRAULT**

**DEFENDANT MARTIAN SALES, INC.'S RESPONSES AND OBJECTIONS
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

TO: Plaintiff, Kathleen Moller, by and through her attorneys of record, Nelson W. Wagar, III, Sarah Wagar Hickman, Wagar Hickman, LLP, 1401 West Causeway Approach, Mandeville, Louisiana and Michael Cowgill, Tamara J. Williams, mctlaw, 1605 Main Street, Suite 710, Sarasota, Florida 34236

Defendant Martian Sales, Inc., pursuant to the Federal Rules of Civil Procedure, responds to Plaintiff's Kathleen Moller's First Set of Interrogatories, as follows:

GENERAL OBJECTIONS

1. Defendant objects to the Interrogatories to the extent that they are vague, ambiguous, overbroad, unduly burdensome, oppressive, not relevant to the subject matter of this action, and not reasonably calculated to lead to the discovery of admissible evidence.

2. Defendant objects to the Interrogatories to the extent that they contradict, are inconsistent with, or impose on Defendant any obligations in excess of the requirements of the Federal Rules of Civil Procedure.

RESPONSE:

Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and seeks information that is neither relevant to the subject matter of this action nor to the determination of any motion made (or that could be made), or in connection with the issue of whether personal jurisdiction over Defendant exists in this action. Specifically, the “agricultural source(s) for [LP’s] Kratom plant material” is not relevant to the issue in this case—namely, Defendant’s alleged liability, or lack thereof, for the events alleged in Paragraph 14 and 17 of the Complaint. Similarly, Plaintiff’s demand to “specify the location of farms, fields, forests or acreages where the Kratom is being sourced from, including the specific owners and address(es) or coordinates within each source country” is overbroad and not tailored to the product, facts, or time period at issue in this case.

INTERROGATORY NO. 4:

Please describe the nature and extent of any other representations to retailers and consumers within Louisiana about the safety and efficacy (or lack thereof) of Martian’s Kratom products. Your description should include but not be limited to verbal and written representations; marketing materials; contracts, forms, templates and commercial documentation; website and blog publications; correspondence, invoicing and e-mail communications with retailers (including Defendant retailers); and scripts or guidance for salespersons, telemarketers, and/or retailers of Martian’s kratom products. In describing each representation or collection of representations, please include the location and content of each representation, the dates or timeframes of the representation(s), and the persons making the representations (including agents and affiliates) and the persons receiving the representations (including but not limited to the Defendant retailers, consumers making on-line or telephone inquiries, or individuals raising complaints or concerns).

RESPONSE:

Defendant objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and seeks information that is neither relevant to the subject matter of this action nor to the determination of any motion made (or that could be made), or in connection with the issue of whether personal jurisdiction over Defendant exists in this action. Specifically, it is not

reasonable for Defendant to identify “any . . . representations to retailers and consumers within Louisiana about the safety and efficacy” of Defendant’s kratom products without reasonable time and scope limitations. Defendant further objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege or work product doctrine.

Subject to the foregoing objections, Defendant states that from approximately mid-2020 through February 2023, Defendant maintained www.opmskratom.com and the OPMS Kratom products included a warning that provided:

Warning:

Only for use as a botanical specimen. *Mitragyna speciosa* is an unapproved dietary ingredient. The manufacturers/re-sellers of this product, therefore, cannot advise on its use. Ingesting *Mitragyna speciosa* can be dangerous. Consult your physician about potential interactions, other possible complications, and precautionary measures before considering this product. By opening this package, you accept full responsibility for the use of the product, including, but not limited to any adverse events or health complications. Inform your physician of the alkaloid content, labeled on the package. This product has been sterilized; all potential contaminants are removed for safety purposes. Manufacturers / Re-sellers assume no responsibility for the use or misuse of this product.

Keep out of reach of children. DO NOT USE IF YOU ARE PREGNANT, PLAN TO BECOME PREGNANT, OR WHILE BREASTFEEDING. NOT FOR SALE TO MINORS! 18+ ONLY. (21+ IN TENNESSEE).

Manufacturers / Re-sellers assume no responsibility for the use or misuse of this product.

INTERROGATORY NO. 5:

Please describe the extent to which you have received information that adverse events may have been suffered by persons within Louisiana using Martian’s kratom products (such as reports, claims, complaints, or allegations that a product user has suffered or may have suffered addiction, withdrawal, overdose, disabilities, death, disruption to enjoyment of life, or other negative symptoms or side effects from a Martian kratom product). Potential sources of such information would include, but not be limited to, customers and consumers; retailers (including the co-Defendants); comments or complaints submitted via website, social media, e- mail, or otherwise; communications from consumer family members; communications from regulatory or law enforcement officials; communications from medical professionals; etc.

RESPONSE:

Subject to the foregoing objections, Defendant states that it is not aware of any “adverse events” related to Defendant’s kratom products outside of the allegations contained in the Complaint in this lawsuit, and the Amended Petition for Damages and Jury Demand dated July 3,

Suite 3700
Seattle, Washington 98101

Martian Sales does not retain any control over the product or distribution channel after initially selling it to the distributor. Further, Martian Sales does not engage in any advertising within the State of Louisiana and does not direct any advertising campaigns to the state.

DATED: September 12, 2024

Respectfully submitted,

By /s/ Gwendolyn C. Payton

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